

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COREY GAMBLE,

Petitioner,

- against -

BRIAN FISCHER, Commissioner of the New
York State Department of Corrections and
Community Supervision,

Respondent.

ORDER

13 Civ. 1048 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

This is a habeas proceeding pursuant to 28 U.S.C. § 2254 in which Petitioner Corey Gamble challenges his October 2004 conviction in New York State court for first-degree murder and second-degree murder.

On May 26, 2020, Petitioner informed this Court that his motion under N.Y. C.P.L. § 440 was denied, and that he was appealing this ruling to the New York Supreme Court, Appellate Division, First Department. (Dkt. No. 42) Petitioner requested that his petition “be held in abeyance to allow the State an opportunity to answer [his] legal issues.” Id.

On June 10, 2020, this Court entered an order staying this case “pending resolution of Petitioner’s state appeal.” (Dkt. No. 43)

In a May 21, 2022 letter, Respondent informed the Court that (1) on February 8, 2022, the First Department denied Gamble’s application for a writ of error coram nobis based on a claim of ineffective assistance of appellate counsel; and (2) on April 22, 2022, the First Department denied Gamble leave to appeal an order of the Supreme Court, Bronx County, dated December 16, 2021, denying his motion to vacate his conviction pursuant to N.Y. C.P.L.

§ 440.10. (Resp. May 21, 2022 Ltr. (Dkt. No. 62) at 1) Respondent also attached copies of both orders to his letter. Respondent states that “petitioner’s State court proceedings have concluded.” (Id.)

In a September 12, 2022 letter, Petitioner states that the New York Court of Appeals has issued orders denying his applications for leave to appeal the First Department’s rulings. (Dkt. No. 64)

It thus appears that Petitioner’s post-conviction proceedings and appeals in New York State court have concluded. Accordingly, the stay in this case is lifted. This Court will now consider Magistrate Judge Fox’s Report and Recommendation concerning Petitioner’s petition. (Dkt. No. 33)

Dated: New York, New York
June 27, 2024

SO ORDERED.

A handwritten signature in black ink, reading "Paul G. Gardephe". The signature is written in a cursive, flowing style. The first letter "P" is large and loops around the rest of the name. The signature is positioned above a horizontal line.

Paul G. Gardephe
United States District Judge